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§ 1648.7 Procedures upon transfer for classification.

A board to which a registrant is transferred for classification shall classify the registrant in the same manner it would classify a registrant assigned to it. When the classification has been decided by the transfer board, the file will be returned to the local board of jurisdiction in the manner prescribed by the Director.

[47 FR 4661, Feb. 1, 1982]

PART 1651—CLASSIFICATION BY DISTRICT APPEAL BOARD

Sec.

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AUTHORITY: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.* E.O. 11623.

SOURCE: 47 FR 4662, Feb. 1, 1982, unless otherwise noted.

§ 1651.1 Who may appeal to a district appeal board.

(a) The Director of Selective Service may appeal from any determination of a local board when he deems it necessary to assure the fair and equitable administration of the Selective Service Law: *Provided*, That, no such appeal will be taken after the expiration of the appeal period prescribed in § 1651.2.

(b) The registrant may appeal to a district appeal board the denial of his claim for a judgmental classification by the local board. The registrant may appeal to a district appeal board the denial of his claim for an administrative classification by the local board whenever its decisions is not unanimous.

[47 FR 4662, Feb. 1, 1982, as amended at 52 FR 24459, July 1, 1987]

§ 1651.2 Time within which registrants may appeal.

The registrant who wishes to appeal must file the appeal with his local board within 15 days after the date he is mailed a notice of classification ac-

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tion. The registrant who wishes a personal appearance before the district appeal board must file the request at the same time he files the appeal.

§ 1651.3 Procedures for taking an appeal.

(a) When the Director of Selective Service appeals to a district appeal board he shall place in the registrant's file a written statement of his reasons for taking such appeal. When an appeal is taken by the Director, the registrant will be notified that the appeal has been taken, the reason therefor, and that the registrant may appear in person before the appeal board in accord with § 1651.4(e).

(b) The registrant may appeal the classification action of the local board by filing with it a written notice of appeal. The registrant's notice of appeal need not be in a particular form but must include the name of the registrant and his request. Any notice shall be liberally construed so as to permit the appeal.

(c) The registrant may also request an opportunity to appear in person before the district appeal board and such appeal will be considered by the board having jurisdiction over the local board which last classified him.

(d) The registrant may attach to his appeal a statement specifying the reasons he believes the classification action that he is appealing is inappropriate, directing attention to any information in his file, and setting out any information relevant to his claim.

§ 1651.4 Review by district appeal board.

(a) An appeal to the district appeal board is determined by the classification of the registrant in a class other than 1-A or by its refusal to take such action. No action shall be taken by the board in the absence of a quorum of its prescribed membership.

(b) Prior to the adjudication of an appeal, the clerk of the appeal board or any compensated employee authorized to perform the administrative duties of the board shall review the file to insure that no procedural errors have occurred during the history of the current claim. Files containing procedural errors will be returned to the local

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board that classified the registrant for any additional processing necessary to correct such errors.

(c) Files containing procedural errors that were not detected during the initial screening but which subsequently surfaced during processing by the appeal board, will be acted on and the board will take such action necessary to correct the errors and process the appeal to completion.

(d) A board shall consider appeals in the order of their having been filed.

(e) Upon receipt of the registrant's file, a board shall ascertain whether the registrant has requested a personal appearance before the board. If no such request has been made, the board may classify the registrant on the bases of the material in his file.

(f) Not less than 10 days (unless the registrant requests an earlier appointment) in advance of the meeting at which his classification will be considered, the board shall inform any registrant with respect to whom the Director of Selective Service has appealed or who has requested a personal appearance that he may appear at such meeting and present written evidence bearing on his classification.

(g) During the personal appearance, only the registrant may address the board or respond to questions of the board. The registrant will not be permitted to present witnesses at the personal appearance before the district appeal board. A registrant may, however, be accompanied by an advisor of his choosing and may confer with the advisor before responding to an inquiry or statement by the board: *Provided*, That, those conferences do not substantially interfere with or unreasonably delay the orderly process of the personal appearance.

(h) If, in the opinion of the board, the informal, administrative nature of the hearing is unduly disrupted by the presence of an advisor during the personal appearance, the board chairman may require the advisor to leave the hearing room. In such case, the board chairman shall put a statement of reasons for his action in the registrant's file.

(i) Whenever a registrant who has filed a claim for whom a personal appearance has been scheduled, fails to

appear in accord with such schedule, the board shall consider any written explanation of such failure that has been filed within 5 days (or extension thereof granted by the board) after such failure to appear. If the board determines that the registrant's failure to appear was for good cause it shall reschedule the registrant's personal appearance. If the board does not receive a timely written explanation of the registrant's failure to appear for his scheduled personal appearance or if the board determines that the registrant's failure to appear was not for good cause, the registrant will be deemed to have abandoned his request for personal appearance and he will be classified on the basis of the material in his file. The board will notify the registrant in writing of its action under this paragraph.

(j) A quorum of the prescribed membership of a board shall be present during all personal appearances. Only those members of the board before whom the registrant appears shall classify him.

(k) At any personal appearance, the registrant may: Present his oral testimony; point out the class or classes in which he thinks he should have been placed; and direct attention to any information in his file. The registrant may present any additional written information he believes will assist the board in determining his proper classification. The information furnished should be as concise as possible.

(l) The registrant may summarize in writing the oral information that he presented. Such summary shall be placed in the registrant's file.

(m) A summary will be made of oral testimony given by the registrant at his personal appearance and such summary shall be placed in the registrant's file.

(n) A district appeal board shall classify a registrant who has requested a personal appearance after he:

- (1) Has appeared before the board; or
- (2) Has withdrawn his request to appear; or
- (3) Has abandoned his right to an opportunity to appear; or
- (4) Has failed to appear.

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(o) In considering a registrant's appeal, a board shall not receive or consider any information other than the following:

(1) Information contained in the registrant's file; and

(2) Oral statements by the registrant during the registrant's personal appearance; and

(3) Written evidence submitted by the registrant to the board during his personal appearance.

(p) In the event a board classifies the registrant in a class other than that which he requested, it shall record its reasons therefor in the file.

(q) The making of verbatim transcripts, and the using of cameras or other recording devices are prohibited in proceedings before the board. This does not prevent the registrant or Selective Service from making a written summary of his testimony.

(r) Proceedings before the appeal boards shall be open to the public only upon the request of or with the permission of the registrant. The board chairman may limit the number of persons attending the hearing in order to maintain order. If during the hearing the presence of non-participants in the proceedings becomes disruptive the chairman may close the hearing.

[47 FR 4662, Feb. 1, 1982, as amended at 52 FR 24459, July 1, 1987]

§ 1651.5 File to be returned after appeal to the district appeal board is decided.

When the appeal to a district appeal board has been decided, the file shall be returned as prescribed by the Director of Selective Service.

PART 1653—APPEAL TO THE PRESIDENT

Sec.

1653.1 Who may appeal to the President.

1653.2 Procedures for taking an appeal to the President.

1653.3 Review by the National Appeal Board.

1653.4 File to be returned after appeal to the President is decided.

AUTHORITY: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

SOURCE: 47 FR 4663, Feb. 1, 1982, unless otherwise noted.

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§ 1653.1 Who may appeal to the President.

(a) The Director of Selective Service may appeal to the President from any non-unanimous determination of a district appeal board when he deems it necessary to assure the fair and equitable administration of the Selective Service Law: *Provided*, That, no such appeal will be taken after the expiration of the appeal period prescribed in paragraph (b) of this section.

(b) When a registrant has been classified by a district appeal board and one or more members of the board dissented from that classification, he may within 15 days after a notice thereof has been mailed, appeal to the President and may request a personal appearance before the National Selective Service Appeal Board.

§ 1653.2 Procedures for taking an appeal to the President.

(a) When the Director of Selective Service appeals to the President he shall place in the registrant's file a written statement of his reasons for taking such appeal. When an appeal is taken by the Director the registrant will be notified that the appeal has been taken, the reasons therefor, and that the registrant may appear in person before the National Board in accord with § 1653.1(b).

(b) An appeal to the President by the registrant shall be taken by filing a written notice of appeal with the local board that classified him. He may at the same time file a written request to appear before the National Selective Service Appeal Board. Such notice need not be in any particular form but must state the name of the registrant and the fact that he wishes the President to review the determination.

§ 1653.3 Review by the National Appeal Board.

(a) An appeal to the President is determined by the National Appeal Board by its classification of the registrant in a class other than 1-A or by its refusal to take such action. No action shall be taken by the board in the absence of a quorum of its prescribed membership.

(b) Prior to the adjudication of an appeal, the clerk of the appeal board or any compensated employee authorized